

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

**CIVIL MINUTES - GENERAL**

Case No.	2:11-cv-04587-JHN-VBK	Date	October 18, 2011
Title	HSBC Bank USA NA v. Antonio Contreras		

Present: The Honorable	JACQUELINE H. NGUYEN		
Chris Silva	Not Reported		N/A
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
Not present		Not present	

**Proceedings: (IN CHAMBERS) ORDER REMANDING CASE TO LOS ANGELES COUNTY SUPERIOR COURT**

On May 27, 2011, Defendant Antonio Contreras (“Defendant”) removed this matter, previously filed in the Los Angeles Superior Court, to federal court. (Docket no. 1.) The Complaint alleges a single cause of action for unlawful detainer. The Court has considered the Notice of Removal and finds no federal jurisdiction. Therefore, the Court **REMANDS** the matter to the Los Angeles County Superior Court.

Removal to federal court is governed by 28 U.S.C. § 1441, which in relevant part states that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . .” 28 U.S.C. § 1441(a). However, the Court may remand a case to state court for lack of subject matter jurisdiction. 28 U.S.C. § 1447(c). “The burden of establishing federal jurisdiction is on the party invoking federal jurisdiction.” *U.S. v. Marks*, 530 F.3d 799, 810 (9th Cir. 2008).

Under 28 U.S.C. § 1331, the Court has original jurisdiction over civil actions “arising under” federal law. “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). The only exception to this rule is where plaintiff’s federal claim has been disguised by “artful pleading,” such as where the only claim is a federal one or is a state claim preempted by federal law. *Sullivan v. First Affiliated Sec., Inc.*, 813 F.2d 1368, 1372 (9th Cir. 1987).

Here, although Defendant alleges that the claims arise under federal law, Plaintiff’s only

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

## CIVIL MINUTES - GENERAL

Case No. 2:11-cv-04587-JHN-VBK

Date October 18, 2011

Title HSBC Bank USA NA v. Antonio Contreras

cause of action is for unlawful detainer under state law. Therefore, no federal question jurisdiction exists.

Pursuant to 28 U.S.C. § 1332, the Court also has original jurisdiction over civil actions where there is complete diversity of citizenship and the amount in controversy exceeds \$75,000. *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001).

However, neither the Complaint nor the Notice of Removal properly alleges complete diversity of citizenship of the parties. Without an allegation as to citizenship, Defendant cannot meet his burden of establishing diversity. Moreover, the Complaint specifically alleges that the damages do not exceed \$10,000. (Compl. 1.) For these reasons, no diversity jurisdiction exists.

Defendant has failed to meet his burden of establishing federal jurisdiction. Accordingly, the Court hereby **REMANDS** this matter to the Los Angeles County Superior Court.

**IT IS SO ORDERED.**

Initials of Preparer

\_\_\_\_\_: N/A  
\_\_\_\_\_  
CSI